

10/689,009

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CASE B-33345P2/N1/GER



FILING BY "EXPRESS MAIL" UNDER 37 CFR 1.10	
<u>EV727271947US</u> Express Mail Label Number	<u>February 10, 2006</u> Date of Deposit

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE PATENT OF
EMANUEL P. MORANO ET AL.
U.S. PATENT NO: 6,978,908
ISSUED: DECEMBER 27, 2005
FOR: DRINKING VESSEL WITH ADJUSTABLE HANDLES

MS: Petition
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

PETITION FOR PATENT TERM ADJUSTMENT
PURSUANT TO 37 CFR §1.705(d)

02/15/2006 TRESHAH2 00000035 190134 6978908
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Patentees submit this Petition for Patent Term Adjustment (PTA) pursuant to 37 CFR §1.705(d) in which they request a reconsideration of the PTA indicated on U.S. Patent No. 6,978,908, which issued on December 27, 2005. This Petition for PTA is being filed on the date indicated below which is less than two months after the issuance of U.S. Patent No. 6,978,908. Thus, this Petition is being timely filed under 37 CFR §1.705(e).

According to the USPTO, and as indicated on the cover page of U.S. Patent No. 6,978,908 and on the "PAIR" page on the USPTO's web site (of which a copy of each is enclosed) the PTA for U.S. Patent No. 6,978,908 is 36 days. It is believed that the USPTO reached this determination by applying a 49 day delay against Applicants because a letter mailed on August 30, 2005 was incorrectly identified as an Information Disclosure Statement.

Patentees respectfully disagree with the USPTO's calculation and believe that they are entitled to 85 days of PTA. Patentees believe that the USPTO was incorrect in assigning a 49 day debit against Applicants because the letter, although mailed after the issuance of the Notice of Allowance, merely pointed out an omission in the Notice of Allowance. More particularly, since the letter mailed on August 30, 2005 indicated that the Examiner failed to include an initialed copy of the second page of the PTO-1449 form which accompanied the Notice of Allowance, it clearly represents an exception to the list of papers which are considered

"a failure to engage in reasonable efforts to conclude processing or examination of an application". In this connection, the USPTO's attention is directed to MPEP 2732 and, more particularly, to the "Clarification of 37 CFR §1.704(c)(10) – Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed", 1247 Off. Gaz. Pat. Office III (June 26, 2001).

As an aside, it should be mentioned that since a Terminal Disclaimer was filed on May 20, 2005 which disclaimed the terminal part of the statutory term of any U.S. patent granted on the subject case which would extend beyond the expiration date of the full statutory term granted on U.S. Application No. 10/662,679, filed on September 15, 2003, the subject U.S. patent would normally not be entitled to any PTA and would expire on September 15, 2023. However, since the U.S. patent which matured on U.S. Application No. 10/662,679, viz., U.S. Patent No. 6,959,827 was entitled to 120 days of PTA, the subject U.S. patent can expire as late as January 13, 2024. In other words, it can accept up to 120 days of PTA if it was entitled to it.

In view of the foregoing, it is believed that the Patentees are entitled to 49 additional days of patent term regarding the subject U.S. patent and that the correct PTA is 85 days. Accordingly, Patentees request that the USPTO issue a Certificate of Correction which indicates that the PTA for the subject U.S. patent is 85 days.

Please charge the \$200 fee required by 37 CFR 1.18(e) and any other fees that may be required to Deposit Account No. 19-0134 in the name of Novartis Corporation. An additional copy of this Petition for PTA is enclosed.

Novartis
Corporate Intellectual Property
One Health Plaza, Building 104
East Hanover, NJ 07936-1080

Respectfully submitted,


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Attorney for Patentees
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Encls.: "cover" page of USP 6,978,908
"PAIR" page
extra copy of Petition for PTA
postcard

Date: February 10, 2006

Printer Friendly

10/689,009

DRINKING VESSEL WITH ADJUSTABLE HANDLES

Patent Term Adjustment History

Patent Term Adjustment (PTA) for Application Number: 10/689,009			
			Days
Filing or 371(c) Date:	10-20-2003	USPTO Delay (PTO):	85
Issue Date of Patent:	12-27-2005	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay(APPL):	49
Post-Issue Petitions (days):	+0	Total PTA:	36
USPTO Adjustment(days):	+0	Explanation Of Calculations	
Patent Term Adjustment History			
Date	Contents Description	PTO(Days)	APPL (Days)
12-27-2005	Patent Issue Date Used in PTA Calculation		
11-29-2005	Dispatch to FDC		
10-17-2005	Mail Miscellaneous Communication to Applicant		
10-11-2005	Miscellaneous Communication to Applicant - No Action Count		
09-22-2005	Application Is Considered Ready for Issue		
08-30-2005	Information Disclosure Statement considered		
08-30-2005	Reference capture on IDS		
08-30-2005	Information Disclosure Statement (IDS) Filed	↑	49
08-30-2005	Issue Fee Payment Verified	↑	
08-30-2005	Issue Fee Payment Received	↑	
08-08-2005	Mail Notice of Allowance	↑	
08-05-2005	Notice of Allowance Data Verification Completed	↑	
06-03-2005	Paralegal TD Accepted	↑	
06-03-2005	Date Forwarded to Examiner	↑	
05-20-2005	Terminal Disclaimer Filed	↑	
05-20-2005	Response after Non-Final Action	↑	
05-20-2005	Reference capture on IDS	↑	
05-20-2005	Information Disclosure Statement (IDS) Filed	↑	
03-15-2005	Mail Non-Final Rejection	85	
03-11-2005	Non-Final Rejection	↑	
02-02-2005	Reference capture on IDS	↑	
02-02-2005	Information Disclosure Statement (IDS) Filed	↑	
07-23-2004	Reference capture on IDS	↑	
07-23-2004	Information Disclosure Statement (IDS) Filed	↑	
06-21-2004	IFW TSS Processing by Tech Center Complete	↑	
06-21-2004	Case Docketed to Examiner in GAU	↑	
03-09-2004	Application Return from OIPE	↑	
03-09-2004	Application Return TO OIPE	↑	

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03-09-2004	Application Return from OIPE	↑
03-09-2004	Application Is Now Complete	↑
03-09-2004	Application Return TO OIPE	↑
03-09-2004	Application Dispatched from OIPE	↑
03-09-2004	Application Is Now Complete	↑
01-28-2004	Additional Application Filing Fees	↑
01-28-2004	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	↑
01-21-2004	Notice Mailed--Application Incomplete-- Filing Date Assigned	↑
01-14-2004	Cleared by OIPE CSR	↑
12-05-2003	IFW Scan & PACR Auto Security Review	↑
10-20-2003	Initial Exam Team nn	↑

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